

CONCLUSION AND RELIEF REQUESTED

- (1) The Defendant's Government Officials were negligent to Plaintiff's medical needs and the Plaintiff has been caused present and future and permanent harm as a result.
- (2) The Plaintiff has established subject matter jurisdiction based on the facts and the discretionary function exception does not apply in the Plaintiff's case at hand.
- (3) The Defendant's Officer Wesemen was negligent when he left the Unit unattended and unsupervised.
- (4) The Defendant's Medical Department was negligent and the proximate cause of the Plaintiff's injuries.
- (5) The Plaintiff demand for a trial by a jury, or a bench trial.
- (6) Award Plaintiff 15 million for medical damages for pain and future suffering from the permanent injuries that was caused by the negligence by the Defendant's.
- (7) Award Plaintiff 20 million for compensatory damages against the Defendant's Government Officials.
- (8) Award Plaintiff 20 million for punitive damages against the Defendant's Government Officials.
- (9) Award the Plaintiff 20 million for the claim submitted to the Federal Agency.


(10) Award Plaintiff any applicable interest against the Defendant's until all judgments are satisfied.

(11) Awarding Plaintiff any other relief that may be deemed just and fair against the Defendant's Government officials.

Wherefore, the Plaintiff request that this Honorable Court "GRANT" the following relief.

Respectfully submitted

BY:


DARRYL ORWIN BAKER
(PRO-SE)
Reg. No. # 19613-039
Federal Prison Camp
P.O. box 2000
Lewisburg, PA.
17837

EXECUTED: DECEMBER 14, 2005.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14, day of December, 2005, a true and correct copy of the foregoing Plaintiff's Motion for Leave to File a Second Amended Complaint, was served by first-class U.S. mail, to the following:

United States Attorney's
Assistant United States Attorney
Mary Beth Buchanan
Paul E. Skirtich
Western District of PA
700 Grant Street, Suite 4000
Pittsburgh, PA. 15219

Respectfully submitted

BY:

Darryl Orrin Baker
DARRYL ORRIN BAKER
Reg. No. # 19613-039
Federal Prison Camp
P.O. Box 2000
Lewisburg, PA.
17837

EXECUTED: DECEMBER 14, 2005.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DARRYL ORRIN BAKER,

Plaintiff,

VS.

UNITED STATES OF AMERICA.
GOVERNMENT OFFICIALS AT
FCI-MCKEAN, WARDEN, OFFICER
B. WESEMEN, MEDICAL DEPARTMENT

DEFENDANTS.

CIVIL ACTION 05-147E

HONORABLE
JUDGE MCLAUGHLIN

AFFIDAVIT

DARRYL ORRIN BAKER SWORE AND DEPOSE:

- (1) The Plaintiff DARRYL ORRIN BAKER, was incarcerated at FCI-Mckean in 2002 to July 1, 2004.
- (2) That I the Plaintiff has suffered injuries on February 27, 2004.
- (3) That I the Plaintiff was reviewed by the Staff at FCI-Mckean on February 29, 2004, to take picture of my injuries I sustained by the assault of the two (2) Latin King Gang Members.
- (4) That Officer B. Wesemen, was not in the Unit when the Plaintiff was assaulted by the two Latin King Gang Members.
- (5) That other inmates that where in the ten man cell and out, when the Plaintiff was assaulted saw these attacks and Officer B. Wesemen, was not in the Unit.
- (6) That the Medical Department was also negligent along with Officer B. Wesemen, when the Plaintiff did not receive immediate


medical treatment from injuries sustained.

(7) That the Warden, Assistant Warden, Doctor Beam, and Doctor Olsen, was the proximate cause of Plaintiff injuries when the Plaintiff did not receive immediate medical attention for my left eye.

(8) That the Defendant's Government Officials caused the Plaintiff future harm and present harm because the Plaintiff is still suffering from these injuries, as a result of there negligence.

Respectfully submitted

BY:


DARRYL ORRIN BAKER
(PRO-SE)
Reg. No.# 19613-039
Federal Prison Camp
P.O. Box 2000
Lewisburg, PA.
17837

EXECUTED: DECEMBER 14, 2005.

THESE STATEMENT ARE TRUE FROM NOS. 1 THRU 8 UNDER THE PENALTIES OF PERJURY.

(EXHIBIT 1)

Memorandum

Northeast Regional Office, Philadelphia, PA
FEDERAL BUREAU OF PRISONS

DATE: December 3, 2004

REPLY TO

ATTN OF: Henry J. Sadowski, Regional Counsel

SUBJECT: Administrative Tort Claim No. TRT-NER-2004-03801

TO: Darryl Orrin Baker, Reg. No. 19613-039
FCI Elkton

Your Administrative Tort Claim No. TRT-NER-2004-03801, properly received by this agency on June 17, 2004,¹ has been considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek compensatory damages in the amount of \$35,000.00 for an alleged personal injury. Specifically, you claim staff did not exercise due care to protect you from being assaulted by two other inmates on February 27, 2004. You contend you were denied appropriate medical care, resulting in injury to your left eye, as well as pain and suffering.

After careful review of this claim, I have decided not to offer a settlement. Investigation reveals you were assaulted by others at the Federal Correctional Institution (FCI), McKean, Pennsylvania, on February 27, 2004. Staff did not become aware of the incident until February 29, 2004. Upon notification of an incident involving you, you were examined by medical staff and provided appropriate treatment for your injuries. You suffered multiple contusions, superficial abrasions, and bruising of the face, right arm, chest and both hands. You complained of eye pain and an initial eye exam was conducted. You refused medication to relieve the pain. Subsequently, you were evaluated by three different eye specialists. You were diagnosed with adhesions to the inferior rectus muscle. Conservative treatment was recommended. An ophthalmologist specializing in orbit injuries, advised that surgery was not worth the risk. The medical record indicates you received appropriate medical care, consistent with community standards.

You did not inform staff of any problem you may have been experiencing with any inmate or group of inmates. Without prior knowledge of a specific problem, the Bureau of Prisons cannot

¹This agency actually received two separate claims from you for an incident which occurred on the same day. Therefore, they have been combined for the purpose of this response.

Darryl Orrin Baker, Reg. No. 19613-039
Claim No. TRT-NER-2004-03801
Page Two

be held responsible for the acts of other inmates. Your failure to properly advise staff of your alleged problems with other inmates prevented staff from taking any action to protect you. There is no evidence of negligence on the part of any Bureau of Prisons' staff in this matter.

Accordingly, your claim is denied. If you are dissatisfied with this decision, you may seek reconsideration from this office or bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this memorandum.

cc: T. R. Sniezek, Warden, FCI Elkton
James F. Sherman, Warden, FCI McKean



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets - 7th Floor
Philadelphia, PA. 19106

June 24, 2004

Darryl Orrin Baker
Reg. No. 19613-039
Federal Correctional Institution-McKean
P.O. Box 8000
Bradford, PA 16701

Re: Administrative Tort Claim Received June 17, 2004
Claim No. TRT-NER-2004-03601

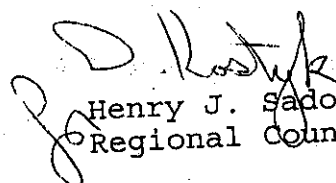
Dear Mr. Baker:

This will acknowledge receipt on June 17, 2004, of your Administrative Tort Claim for alleged personal injury suffered at the FCI McKean on or about February 27, 2004.

Under the provisions of the Federal Tort Claims Act, 28 U.S.C. 2675, we have six months from the date of receipt to review, consider, and adjudicate your claim. Accordingly, you may expect to hear from us on or before December 14, 2004.

All correspondence regarding this claim should be addressed to me at: Federal Bureau of Prisons, Northeast Regional Office, U.S. Custom House, Room 700, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact me immediately. Also, should your address change, you should advise me accordingly.

Sincerely,


Henry J. Sadowski
Regional Counsel

MEDICAL CLAIM

SF 95 (Face)

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.			FORM APPROVED OMB NO. 1105-0008
1. Submit To Appropriate Federal Agency: REGIONAL COUNSEL, NORTHEAST REGIONAL OFFICE U.S. CUSTOMS HOUSE-7TH FLOOR 2ND & CHESTNUT STREETS PHILADELPHIA, P.A. 19106		2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and ZIP Code) DARRYL ORRIN BAKER NO. #19613-039 P.O. BOX 8000 BRADFORD, P.A. 16701 FEDERAL CORRECTIONAL INSTITUTION			
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 6-30-62	5. MARITAL STATUS DIVORCED	6. DATE AND DAY OF ACCIDENT FEBRUARY 27, 2004	7. TIME (A.M. OR P.M.) 8:10 p.m.	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.) (SEE ATTACHMENT) MEDICAL CLAIM					

PROPERTY DAMAGE

9. NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and ZIP Code)

N/A

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on the reverse side.)

N/A

PERSONAL INJURY/WRONGFUL DEATH

10. STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT.
(SEE ATTACHMENT) MEDICAL CLAIM

WITNESSES

11. NAME ADDRESS (Number, street, city, State, and ZIP Code)

(SEE ATTACHMENT)

(SEE ATTACHMENT)

12. (See instructions on reverse)				AMOUNT OF CLAIM (in dollars)	
12a. PROPERTY DAMAGE N/A	12b. PERSONAL INJURY \$15 MILLION	12c. WRONGFUL DEATH N/A	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$15 MILLION		

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) <i>Darryl Baker</i>	13b. Phone Number of signatory	14. DATE OF CLAIM 6-13-04
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant shall forfeit and pay to the United States the sum of \$2,000, plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)

95-109

Previous editions not usable.

NSN 7540-00-634-4046

STANDARD FORM 95 (Rev. 7-85)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

(This form may be replicated via WP)

3/30/04

SF 95 (face)

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.			FORM APPROVED OMB NO. 1105-0008
1. Submit To Appropriate Federal Agency: REGIONAL COUNSEL, NORTHEAST REGIONAL OFFICE U.S. CUSTOMS HOUSE-7TH FLOOR 2ND & CHESTNUT STREETS PHILADELPHIA, P.A. 19106		2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and ZIP Code) DARRYL ORRIN BAKER NO. #19613-039 P.O. BOX 8000 BRADFORD, P.A. 16701 FEDERAL CORRECTION INSTITUTION			
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 06-30-62	5. MARITAL STATUS DIVORCED	6. DATE AND DAY OF ACCIDENT FEBRUARY 27, 2004	7. TIME (A.M. OR P.M.) 8:10 p.m.	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.) (SEE ATTACHMENT)					
9. PROPERTY DAMAGE NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and ZIP Code) N/A BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on the reverse side.) N/A					
10. PERSONAL INJURY/WRONGFUL DEATH STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. (SEE ATTACHMENT)					
11. WITNESSES NAME ADDRESS (Number, street, city, State, and ZIP Code) (SEE ATTACHMENT) (SEE ATTACHMENT)					
12. (See instructions on reverse) AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE N/A	12b. PERSONAL INJURY \$20 MILLION	12c. WRONGFUL DEATH N/A	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$20 MILLION		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) Darryl Baker		13b. Phone Number of signatory		14. DATE OF CLAIM 6-13-04	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant shall forfeit and pay to the United States the sum of \$2,000, plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)			

95-109
Previous editions not usable.

NSN 7540-00-634-0466

STANDARD FORM 95 (Rev. 7-85)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2

(This form may be replicated via WP)

(EXHIBIT 2)

AFFIDAVIT

SWORN UNDER THE PENALTIES OF PERJURY:

- (1) I inmate Thurman Johnson, was assigned to the ten (10) man cell on February 27, 2004.
- (2) That inmate Baker, was assaulted by to inmates in the ten man cell on February 27, 2004.
- (3) That Officer Weseman, was not patrolling the Unit when this assault took place on inmate Baker.
- (4) That Officer Weseman, was not in the Unit when the assault took place.
- (5) That Officer Weseman, was unaware what took place on February 27, 2004.
- (6) That inmate Baker, was bleeding profusely and suffered a injury to his left eye.

Respectfully submitted

/s/ Thurman Johnson
INMATE THURMAN JOHNSON
REG. NO.# 11013-055
P.O. BOX 8000
F.C.I. MCKEAN
BRADFORD, P.A. 16701

DATED APRIL 15, 2004.

THAT THESE STATEMENTS FROM 1 THRU 6 ARE TRUE UNDER THE PENALTIES OF PERJURY:

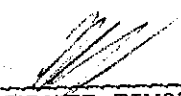
AFFIDAVIT

SWORN AFFIDAVIT UNDER THE PENALTIES OF PERJURY:

- (1) I inmate Tim, was assigned to the ten (10) man cell on February 27, 2004.
- (2) That on February 27, 2004, at approximately 8:05p.m. I was asleep in the ten (10) man cell.
- (3) That when I awoke, I saw inmate Baker, being assaulted by two (2) other inmates.
- (4) Inmate Baker, was bleeding profusely and he had a injury to his left eye.

Respectfully submitted

/s/


INMATE TIMOTHY BRADLEY
REG. NO. #03098-049
P.O. BOX 8000
F.C.I. MCKEAN
BRADFORD, P.A. 16701

DATED APRIL 10, 2004.

THAT THESE STATEMENTS FROM 1 THRU 4 ARE TRUE UNDER THE PENALTIES OF PERJURY:

(EXHIBIT 3)

SENECA EYE SURGEONS

Robert J. Weiss, M.D.

Timothy J. O'Brien, M.D.

Nicholas A. Stathopoulos, M.D.

April 16, 2004

#19613-039

Dr. H. Beam
Health Center
FCI McKean
PO Box 5000
Bradford, PA 16701

Re: Darryl O. Baker
DOB: 6/30/1962
DX: Orbital Floor Fracture w/Entrapment
DATE OF EVAL: 4/15/04

Mr. Baker was seen April 15th. He had been struck in the left eye February 27th with a fist. He was complaining of blurred vision in both eyes. He does note that he gets double vision when he looks up. This is especially noticeable when he is weight lifting and doing, I believe, bent over rows and is looking straight ahead with his head tilted down.

His vision was 20/100 in the right eye and 20/200 on the left. This was easily correctable to 20/20 in either eye with an eyeglass prescription. The eyes were well aligned straight ahead. However, with up gaze the left eye did not elevate or look as far up as the right eye. I did not see any signs that the left eye was protruding further out or recessed into the eye more so than the right. The retina was normal.

The reports of the CT did suggest that there was some scarring of the floor of the orbit with possible adhesions to the inferior rectus muscle. Typically, in ophthalmology even with a fracture of the orbital floor, we like to wait at least two weeks to see that it heals on its own and the muscle entrapment is resolved. He is about six to eight weeks out and complaining of symptoms. Because he is well aligned at near, I think it would be better to take a conservative approach as the scarring is adherent to the muscle. However, it may be worthwhile to get a secondary opinion from an orbital plastic specialist who deals with these on a regular basis.

Thank you for allowing me to participate in Darryl's care. If you do not pursue an orbital evaluation, have him see me again in another three months.

Best regards,

N. Stathopoulos, MD

Nicholas A. Stathopoulos, M.D.

NAS/js

Cc Darryl C. Baker

103 West St. Clair Street
Warren, PA 16365
(814)726-2020
1-877-MD4-EYES
Fax (814)726-1215

27 Porter Avenue
Jamestown, NY 14701
(716)483-2020
1-866-716-EYES
Fax (716)488-9295

2 Main Street
Bradford, PA 16701
(814)362-7477
1-866-814-EYES
Fax (814)362-4975

REVIEWED BY

Beam
4/21/04

H. BEAM, MD
FCI MCKEAN

(EXHIBIT 4)

6/1/2007
29/25 m/edU.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: BAKER DARRYL ORRIN
LAST NAME, FIRST, MIDDLE INITIAL19613-039
REG. NO.G-A
UNITFSL ELKTON
INSTITUTION

Part A- INMATE REQUEST

I HAVE RECEIVED RETALIATION, DELIBERATIVELY INDIFFERNECE, EIGHTH AMENDMENT VIOLATION FOR FILING GRIEVANCE BY MS. BARNES, DOCTOR QUINN, AND THE EYE DOCTOR.

RELIEF REQUESTED: I AM HAVING EXCRUCIATING PAIN IN MY LEFT EYE AND NEED MEDICAL TREATMENT FROM A ORBITAL SPECIALIST.

FEBRUARY 3, 2005.
DATE

SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

February 10, 2005.

WARDEN:

(1) I inmate Baker, has been to the FSL Medical Department on several occasions seeking treatment for an injury I sustained on February 27, 2004.

(2) I have been seeking treatment for an Orbital Fracture that occurred on February 27, 2004, and have been denied treatment by Ms. Barnes, Dr. Quinn, and the Eye Specialist, here at FSL Elkton Medical Department.

(3) I have been having excruciating pain in my left eye, and see double vision when I look up and to the left and right sides.

(4) As a result of the injury I sustained to my left eye on February 27, 2004, and I have been Retaliated against, received Deliberate Indifference, and denied my Eighth Amendment Rights.

(5) Warden, would you please look into the matter because, I am still having excruciating pain in my left eye and I am still seeing double and having double vision.

Sincerely,

/s/ Darryl Baker
INMATE BAKER
REG. NO. # 19613-039

RECEIVED

2005 FEB 14 P 12:20

FCL ELKTON
WARDEN'S OFFICE

COPY

**REQUEST FOR ADMINISTRATIVE REMEDY
PART B - RESPONSE**

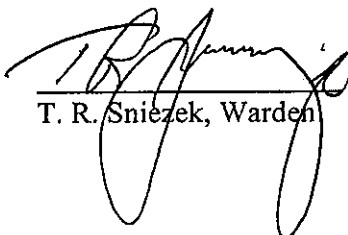
BAKER, Darryl Orrin
Reg. No.: 19613-039
Remedy I.D.: 366343-F7
Qtr: Unit G/A

This is in response to your Request for Administrative Remedy receipted March 3, 2005, in which you request to be seen by an orbital specialist. In addition, you allege "retaliation, deliberate indifference, and violation of your Fifth Amendment right."

Investigation into this matter reveals you suffered an orbital floor fracture when you were assaulted on February 27, 2004, at FCI McKean but you did not seek treatment until February 29, 2004. On August 12, 2004, you were transferred to FCI Elkton. Since that time, you have been evaluated on numerous occasions by the physician assistant, the staff physician, and the Clinical Director for eye pain. You were scheduled to undergo a CT Scan of your head; however, due to technical difficulties the test was unable to be performed. The medical staff is in the process of rescheduling your test and you are tentatively scheduled March 28, 2005. A medical determination will be made pending the results of this test, and if it is clinically indicated you will be scheduled to see an orbital specialist. In addition, your medical record reveals you have received well-documented care and appropriate medical treatment. As a result, you have provided no viable evidence that staff have retaliated, shown deliberate indifference, or violated your Fifth Amendment Rights.

Based on these findings, your Request for Administrative Remedy is neither granted nor denied, but for informational purposes only.

If you are dissatisfied with this response, you may appeal to the Regional Director, Bureau of Prisons, Northeast Region, U.S. Customs House, 7th Floor, 2nd and Chestnut Streets, Philadelphia, Pennsylvania, 19106, within 20 calendar days of the date of this response.


T. R. Sniezek, Warden

3/25/05
Date

UNITED STATES GOVERNMENT

memorandum

FCI Elkton, Ohio

Date:

6/8/05

Reply to: Jane Barnes, PA-C

Attn of: Acting Assistant Health Services Administrator

Michele, Keller, D.O.

Clinical Director/URC Chairman

Subject: Community Referral Approval/Denial

To:

Baker Darryl

Reg. No:

19613-039

Unit:

GA

This is to advise you that on 6/8/05, your medical case/condition was presented to the *Utilization Review Committee* to determine the clinical indication and/or benefit, as well as the urgency and non-urgency of referring you to the community to undergo additional diagnostic testing, and/or an evaluation by a specialist. It was the decision of the *Utilization Review Committee* that your case has been:

approved

disapproved

tabled at this time. (See below).

If your case has been approved, you will be scheduled in the near future to have the diagnostic testing/surgical evaluation/specialists' evaluation, etc., performed in the community. Due to security concerns, you will not be advised of the date of the referral or be provided additional information on the Escorted Medical Trip until the date of the trip. If you have any change in your condition or symptoms, report them to the Clinical Director and/or your Primary Care Provider. ***If you decide that you do not agree with the referral and or testing, you MUST report to the Clinical Director (in writing) that you are not agreeing to proceed with the referral.

If your case has been disapproved at this time, it has been determined by the committee that the benefit of the referral may not be achieved, and/or, your condition can be maintained in-house. This does not mean that you do not have a legitimate medical condition; however, it indicates that the condition may not be improved by a community referral or it is currently being managed and routinely evaluated in the Chronic Care Clinic. This does not mean that your condition may not warrant future referral to the community; however, this is based on results on continued in-house monitoring, diagnostic results and/or a change in your condition. If you have any questions, you must discuss this with the Clinical Director and/or your Primary Care Provider.

If the decision to table your case was made, this indicates that you will be scheduled for an additional testing and/or evaluation and/or repeat evaluation in-house. Your case then will be presented to the Utilization Review Committee at a later date.

98 all
ophtalmologist
within 2-3 months

CJMG24

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: BAKER DARRYL ORRIN	# 19613-039	G-A	FSL ELKTON
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST

I HAVE BEEN RETALIATED FOR FILING GRIEVANCES AND RECEIVED DELIBERATIVELY INDIFFERENCE UNDER THE EIGHTH AMENDMENT FOR BEING DENIED MEDICAL TREATMENT BY STAFF HERE AT FSL ELKTON. STAFF HERE AT FSL THAT ARE RESPONSIBLE FOR RETALIATION ARE: MR. HOWARD COUNSELOR, BRAIN DICKINSON OFFICER, WARDEN SENIZEK, SIS LIEUTENANT MCKENNY, THIS INCIDENT OCCURRED ON AUGUST 11, 2005. ALSO, I WAS RETALIATED AGIANST BY MS. SHASTEEN ACCOUNT MANAGER

AUGUST 24, 2005
DATE

Darryl Baker
SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____	REG. NO. _____	UNIT _____	INSTITUTION _____
LAST NAME, FIRST, MIDDLE INITIAL			

MORCIL
LELK 1330.13
April 08, 1997
Attachment AREQUEST FOR ADMINISTRATIVE REMEDY
INFORMAL RESOLUTION FORM
FCI, ELKTON, OHIO

Bureau of Prisons Program Statement 1330.13 "Administrative Remedy Procedures for Inmates" states that "before an inmate seeks formal review of a complaint he must try to resolve the complaint informally by presenting it to a staff member." The staff member must also try to resolve the complaint "informally" before the inmate will be given an Administrative Remedy Form.

SUBMITTED AUGUST 10, 2005

INFORMAL RESOLUTION NUMBER: CAMOLLYINMATE'S NAME: DARRYL ORRIN BAKER NO. #19613-039 UNIT G-A

1. Specific Complaint: RETALIATION, DELIBERATIVELY INDIFFERENCE, EIGHTH AMENDMENT VIOLATION FOR FILING GRIEVANCE BY MS. BARNES, DOCTOR QUINN, DOCTOR MOHIB SIDHOM, DOCTOR KELLER, MS. NESSUER, CASE MANAGER, MR. HOWARD, MR. MARILIK,
2. Relief Requested: I AM HAVING EXCRUCIATING PAIN IN MY LEFT EYE AND NEED MEDICAL TREATMENT FORM A ORBITAL SPECIALIST.

Date/Time Complaint received from inmate: _____

4. Date/Time Informally discussed with inmate: _____

5. Staff Response: _____

6. Date Administrative Remedy provided: _____

7. Informal Resolution was / was not accomplished.

Inmate's Signature/Register No. _____

Date _____

STAFF MEMBER'S NAME & TITLE _____

DATE _____

UNIT MANAGER'S SIGNATURE _____

DATE _____

DISTRIBUTION: If complaint is informally resolved before being receipted, Correctional Counselors shall maintain informal resolution form for future reference. If complaint is not informally resolved, forward original resolution form, attached to administrative remedy, to the Administrative Remedy Clerk.

7/21/05
Due 8/20/05
J

ELK 1330.13
April 08, 1997
Attachment A

REQUEST FOR ADMINISTRATIVE REMEDY
INFORMAL RESOLUTION FORM
FCI, ELKTON, OHIO

Bureau of Prisons Program Statement 1330.13 "Administrative Remedy Procedures for Inmates" states that "before an inmate seeks formal review of a complaint he must try to resolve the complaint informally by presenting it to a staff member." The staff member must also try to resolve the complaint "informally" before the inmate will be given an Administrative Remedy Form.

INFORMAL RESOLUTION NUMBER: 414025

SUBMITTED AUGUST 10, 2005

INMATE'S NAME: DARRYL ORRIN BAKER

NO. # 19613-039

UNIT G-A

1. Specific Complaint RETALIATION, DELIBERATIVELY INDIFFERENCE, EIGHTH AMENDMENT VIOLATION FOR FILING GRIEVANCE, MR. HOWARD, COUNSELOR, MS. SHASTEEN RECORDS

2. Relief Requested: NOT TO BE HARASSED BY F.S.L. STAFF.

Date/Time Complaint received from inmate: _____

4. Date/Time Informally discussed with inmate: _____

5. Staff Response: _____

6. Date Administrative Remedy provided: _____

7. Informal Resolution was / was not accomplished.

Inmate's Signature/Register No. _____

Date _____

STAFF MEMBER'S NAME & TITLE _____

DATE _____

UNIT MANAGER'S SIGNATURE _____

DATE _____

DISTRIBUTION: If complaint is informally resolved before being receipted, Correctional Counselors shall maintain informal resolution form for future reference. If complaint is not informally resolved, forward original resolution form, attached to administrative remedy, to the Administrative Remedy Clerk.

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: <u>BAKER DARRYL ORRIN</u>	<u># 19613-039</u>	<u>G-A</u>	<u>FSL ELKTON</u>
<u>LAST NAME, FIRST, MIDDLE INITIAL</u>	<u>REG. NO.</u>	<u>UNIT</u>	<u>INSTITUTION</u>

Part A- INMATE REQUEST

I INMATE BAKER HAS BEEN REQUESTING MEDICAL TREATMENT FROM FSL ELKTON STAFF FOR OVER A YEAR CONCERNING MY LEFT EYE WHICH I SUSTAINED A INJURY. STAFF HERE HAS BEEN DELIBERATIVELY INDIFFERENCE TOWARD MY MEDICAL NEED, AND RETALIATED AGAINST FOR FILING GRIEVANCES. I AM STILL HAVING EXCRUCIATING PAIN AND NEED MEDICAL TREATMENT. THE FOLLOWING STAFF MEMBERS HAVE BEEN RESPONSIBLE FOR DENYING ME MEDICAL TREATMENT AND PAIN AND RETALIATION ARE: MS. BARNES, DOCTOR QUINN, DOCTOR AZIB MUHAMMID, DOCTOR KELLER, MR. HOWARD COUNSELOR, WARDEN SENIZEK.

AUGUST 24, 2005

DATE



SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____

ELK 1330.13
April 08, 1997
Attachment A

REQUEST FOR ADMINISTRATIVE REMEDY
INFORMAL RESOLUTION FORM
FCI, ELKTON, OHIO

Bureau of Prisons Program Statement 1330.13 "Administrative Remedy Procedures for Inmates", states that "before an inmate seeks formal review of a complaint he must try to resolve the complaint informally by presenting it to a staff member." The staff member must also try to resolve the complaint "informally" before the inmate will be given an Administrative Remedy Form.

INFORMAL RESOLUTION NUMBER: ADM009

INMATE'S NAME: D. BAKER NO. # 19613-039 UNIT 6A

1. Specific Complaint: RETALIATION, DELIBERATIVELY INDIFFERENCE, EIGHTH AMENDMENT VIOLATION FOR FILING GRIEVANCE BY MS. BARNES, DOCTOR QUINN, AND THE EYE DOCTOR.

2. Relief Requested: IAAM HAVING EXCRUCIATING PAIN IN MY LEFTY EYE AND NEED MEDICAL TREATMENT FROM A ORBITAL SPECIALIST.

Date/Time Complaint received from inmate: 1/17/05 640pm

4. Date/Time Informally discussed with inmate: _____

5. Staff Response: You are scheduled for CT scan of
face prior to seeing the specialist.

6. Date Administrative Remedy provided: 1/29/05

7. Informal Resolution was / was not accomplished.

Darrell Baker 19613-039
Inmate's Signature/Register No.

1/29/05
Date

Mohamed Azam
Health Services Administrator
STAFF MEMBER'S NAME & TITLE

1/27/05
DATE

[Signature]
UNIT MANAGER'S SIGNATURE

2-10-05
DATE

DISTRIBUTION: If complaint is informally resolved before being receipted, Correctional Counselors shall maintain informal resolution form for future reference. If complaint is not informally resolved, forward original resolution form, attached to administrative remedy, to the Administrative Remedy Clerk.

REQUEST FOR ADMINISTRATIVE REMEDY
INFORMAL RESOLUTION FORM
FCI, ELKTON, OHIO

ELK 1330.13
April 08, 1997
Attachment A

Bureau of Prisons Program Statement 1330.13 "Administrative Remedy Procedures for Inmates" states that "Before an inmate seeks formal review of a complaint he must try to resolve the complaint informally by presenting it to a staff member." The staff member must also try to resolve the complaint "informally" before the inmate will be given an Administrative Remedy Form.

INFORMAL RESOLUTION NUMBER 214025 SUBMITTED AUGUST 10, 2005

INMATES NAME: DARRYL ORRIN BAKER NO. # 19613-039 UNIT G-A

1. Specific Complaint RETALIATION, DELIBERATIVELY INDIFFERENCE, EIGHTH AMENDMENT VIOLATION FOR FILING GRIEVANCE, MR. HOWARD, COUNSELOR, MS. SHASTEN RECORDS

2. Relief Requested: NOT TO BE HARASSED BY F.S.I. STAFF.

Date/Time Complaint received from inmate 8-10-05 0730

4. Date/Time Informally discussed with inmate: 8/25/05 3PM

5. Staff Response: I HAVE NEVER HARASSED INMATE BAKER OR ANY OTHER INMATE. I HAVE NOT REMEMBERED ANY INMATE HAVING BEEN DISCIPLINED OR EXCESSIVE LINES OR BUILT OR CARED OR UNWILLING TO EXCESSIVE LINES OR

6. Date Administrative Remedy provided: 8/25/05

7. Informal Resolution was ☒ was not accomplished

Inmate's Signature/Register No. Darryl Baker 19613-039 8/25/05

7-21-05
Moral
F

ELK 1330.13
April 08, 1997
Attachment A

INFORMAL R

INMATES NA

1. Specific C
VIOLATION

2. Relief Re

Date/Time

4. Date/Time

5. Staff Re

6. Date A

7. Inform

INMATE'S

STAFF

UNIT 1

REQUEST FOR ADMINISTRATIVE REMEDY

INFORMAL RESOLUTION FORM

FCI, ELKTON, OHIO

Bureau of Prisons Program Statement 1330.13 "Administrative Remedy Procedures for Inmates" states that "before an inmate seeks formal review of a complaint he must try to resolve the complaint informally by presenting it to a staff member." The staff member must also try to resolve the complaint "informally" before the inmate will be given an Administrative Remedy Form.

INFORMAL RESOLUTION NUMBER C111111

SUBMITTED AUGUST 10, 2005

INMATES NAME DARRYL ORRIN BAKER

NO. #19613-039

UNIT G-7A

1. Specific Complaint RETRIBUTION, DELIBERATIVELY INDIFFERENCE, EIGHTH AMENDMENT VIOLATION FOR FILING GRIEVANCE BY MS. BARNES, DOCTOR QUINN, DOCTOR MOHIB SIDHOM, DOCTOR KELLER, MS. NESSUER, CASE MANAGER, MR. HOWARD, MR. MARILIK,
2. Relief Requested I AM HAVING EXCRUCIATING PAIN IN MY LEFT EYE AND NEED MEDICAL TREATMENT FORM A ORBITAL SPECIALIST.

Date/Time Complaint received from inmate: 8-10-05 0730

4. Date/Time Informally discussed with inmate: 8/24/05 330

5. Staff Response THIS ISSUE HAS ALREADY BEEN ADDRESSED BY ADMIN. REMEDY 366343-F7 IN LATE MARCH OR EARLY APRIL 2005. THIS IS UNFINISHED.

6. Date Administrative Remedy provided: 8/24/05

7. Informal Resolution was / was not accomplished. was not accomplished

Inmate's Signature/Parole Officer No. Darryl Baker 8/24/05

EXTENSION OF TIME FOR RESPONSE - ADMINISTRATIVE REMEDY

DATE: MARCH 25, 2005

FROM: ADMINISTRATIVE REMEDY COORDINATOR
ELKTON FCI

TO : DARRYL ORRIN BAKER, 19613-039
ELKTON FCI UNT: UNIT G-A QTR: G01-011U

ADDITIONAL TIME IS NEEDED TO RESPOND TO THE ADMINISTRATIVE REMEDY REQUEST IDENTIFIED BELOW. WE ARE EXTENDING THE TIME FOR RESPONSE AS PROVIDED FOR IN THE ADMINISTRATIVE REMEDY PROGRAM STATEMENT.

REMEDY ID : 366343-F7
DATE RECEIVED : MARCH 3, 2005
RESPONSE DUE : APRIL 12, 2005
SUBJECT 1 : MEDICAL CARE - DELAY OR ACCESS TO
SUBJECT 2 : OTHER COMPLAINT AGAINST STAFF
INCIDENT RPT NO:

RECEIPT - ADMINISTRATIVE REMEDY

DATE: MARCH 3, 2005

FROM: ADMINISTRATIVE REMEDY COORDINATOR
ELKTON FCI

TO : DARRYL ORRIN BAKER, 19613-039
ELKTON FCI UNT: UNIT G-A QTR: G01-011U

THIS ACKNOWLEDGES THE RECEIPT OF THE ADMINISTRATIVE REMEDY REQUEST
IDENTIFIED BELOW:

REMEDY ID : 366343-F7
DATE RECEIVED : MARCH 3, 2005
RESPONSE DUE : MARCH 23, 2005
SUBJECT 1 : MEDICAL CARE - DELAY OR ACCESS TO
SUBJECT 2 : OTHER COMPLAINT AGAINST STAFF
INCIDENT RPT NO:

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: FEBRUARY 22, 2005

A. Fusco
FROM: ADMINISTRATIVE REMEDY COORDINATOR
ELKTON FCI

BP
TO : DARRYL ORRIN BAKER, 19613-039
ELKTON FCI UNT: UNIT G-A QTR: G01-011U
P.O. BOX 89
ELKTON, OH 44415

FOR THE REASONS LISTED BELOW, THIS ADMINISTRATIVE REMEDY REQUEST IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 366343-F4 ADMINISTRATIVE REMEDY REQUEST
DATE RECEIVED : FEBRUARY 22, 2005
SUBJECT 1 : MEDICAL CARE - DELAY OR ACCESS TO
SUBJECT 2 : OTHER COMPLAINT AGAINST STAFF
INCIDENT RPT NO:

REJECT REASON 1: YOU DID NOT PROVIDE A COPY OF THE ATTACHMENTS TO YOUR INSTITUTION ADMINISTRATIVE REMEDY REQUEST (BP-9).

REJECT REASON 2: YOU MAY ~~RESUBMIT YOUR REQUEST~~ IN PROPER FORM WITHIN 5 DAYS OF THE DATE OF THIS REJECTION NOTICE.

REMARKS : DID NOT INCLUDE COPIES OF ATTACHMENTS.
THIS IS BEING RETURNED AGAIN - THIRD TIME.



(EXHIBIT 5)

13-110

MEDICAL RECORD

CONSULTATION SHEET

REQUEST		DATE OF REQUEST
TO: OPTOMETRIST	FROM: (Requesting physician or activity) Dennis Olson, MD, CD	

REASON FOR REQUEST (Complaints and findings)

EYE EXAM :

SUBJECTIVE :

blurred at far and near
assaulted
Feb 27th
age 41

PROVISIONAL DIAGNOSIS

Intin left eye socket

DOCTOR'S SIGNATURE D. OLSON, M.D.	APPROVED	PLACE OF CONSULTATION <input type="checkbox"/> BEDSIDE <input type="checkbox"/> ON CALL	<input type="checkbox"/> ROUTINE <input type="checkbox"/> TODAY <input type="checkbox"/> 72 HOURS <input type="checkbox"/> EMERGENCY
--------------------------------------	----------	--	---

CONSULTATION REPORT

RECORD REVIEWED ☐ YES ☐ NOPATIENT EXAMINED ☒ YES ☐ NO

Visual Acuity Distance OD 20/200 OS 20/200
Near OD 37m OS 37m
REFRACTION: OD 17
OS 18
uncorrected
0950

External Normal 72/69
Internal

open angles bilaterally to examine retinas

Refraction OD -1.00 -1.25 x 180
OS -1.00 -1.25 x 10

20/20
20/20

50% x 24 x 6 1/4
Soreness

Diagnosis CMA

Analysis requires eyeglasses

Plan order eyeglasses

(Continue on reverse side)

SIGNATURE AND TITLE

Charles J. Horvath

IDENTIFICATION NO.

ORGANIZATION

FCI McKean

REGISTER NO.

19613-039

DATE

3/31/04

WARD NO.

PATIENT'S IDENTIFICATION (For typed or written entries give: Name—last, first, middle; grade/rank; rate; hospital or medical facility)

Baker, David

REVIEWED BY

10/1/04
3/31/04
ordered

H. BEAM AND FCI MCKEAN

CONSULTATION SHEET

Medical Record

STANDARD FORM 513 (REV. 8-92)
Prescribed by GSA/ICMR, FIRM (41 CFR) 201-9.202-1

Refers to optometrist

MEDICAL RECORD		CONSULTATION SHEET	
REQUEST			
TO: <u>OPTOMETRIST</u>		FROM: (Requesting physician or activity) <u>Dennis Olson, MD, CD</u>	
REASON FOR REQUEST (Complaints and findings) <u>EYE EXAM :</u>		DATE OF REQUEST	
<u>SUBJECTIVE :</u>			
PROVISIONAL DIAGNOSIS			
DOCTOR'S SIGNATURE <u>D. OLSON, M.D.</u>		APPROVED	PLACE OF CONSULTATION <input type="checkbox"/> BEDSIDE <input type="checkbox"/> ON CALL <input type="checkbox"/> ROUTINE <input type="checkbox"/> TODAY <input type="checkbox"/> 72 HOURS <input type="checkbox"/> EMERGENCY
CONSULTATION REPORT			
RECORD REVIEWED <input type="checkbox"/> YES <input type="checkbox"/> NO		PATIENT EXAMINED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
Visual Acuity Distance OD OS		TONOMETRY: OD	
Near OD OS		OS	
External	Compared prescriptions obtained on 3/31/04 to Dr Stathopoulos - Vision is 20/20 with such correction. - essentially equal		
Internal			
Refraction			
Diagnosis	No charge required		
Analysis			
Plan			

(Continue on reverse side)

SIGNATURE AND TITLE <u>Christina J. Hovatter</u>			DATE <u>4/28/04</u>
IDENTIFICATION NO. <u>4/28/04</u>	ORGANIZATION FCI McKean	REGISTER NO. <u>19613-039</u>	WARD NO.
PATIENT'S IDENTIFICATION (For typed or written entries give: Name—last, first, middle; grade; rank; rate; hospital or medical facility)			

Dennis Olson, MD
Physician

Baker, David

CONSULTATION SHEET
Medical Record

MEDICAL RECORD

CONSULTATION S. ET

REQUEST

TO: OPTOMETRIST FROM: (Requesting physician or activity) Dennis Olson, MD, CD DATE OF REQUEST

REASON FOR REQUEST (Complaints and findings)

EYE EXAM

SUBJECTIVE:

Did not appear for scheduled appointment
Went to Dr on outside trip today

PROVISIONAL DIAGNOSIS

DOCTOR'S SIGNATURE

D. OLSON, M.D.

APPROVED

PLACE OF CONSULTATION

☐ BEDSIDE☐ ON CALL☐ ROUTINE☐ 72 HOURS☐ TODAY☐ EMERGENCY

CONSULTATION REPORT

RECORD REVIEWED ☐ YES ☐ NOPATIENT EXAMINED ☐ YES ☒ NO

Visual Acuity Distance OD OS
Near OD OS

TONOMETRY: OD OS

External
Internal
Refraction

On tonight to see ophthalmologist
today

6/9/04

Diagnosis
Analysis

D. Olson, MD
Clinical Director

Plan

(Continue on reverse side)

SIGNATURE AND TITLE

Christian J. Haranto

DATE

6/9/04

IDENTIFICATION NO.

ORGANIZATION

FCI McKean

REGISTER NO.

14613

WARD NO.

PATIENT'S IDENTIFICATION (For typed or written entries give: Name—last, first, middle; grade; rank; rate; hospital or medical facility)

BAKER

CONSULTATION SHEET

Medical Record